

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-X

VICTOR HERNANDEZ,

Plaintiff,

- against -

COMPLAINT AND
JURY TRIAL DEMAND

C.O. BRYAN W. EULL, C.O. RAYMOND LATOURETTE,
and LIEUTENANT COCUZZO,

Defendants.

-X

Plaintiff, VICTOR HERNANDEZ, by his attorney, ALAN D. LEVINE, ESQ.,
complaining of the defendants herein, respectfully alleges as follows:

JURISDICTION

1. This is a civil action, seeking compensatory damages, punitive damages and attorney's fees.
2. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the fourteenth amendment to the Constitution of the United States.
3. Jurisdiction is founded upon 28 U.S.C. §§1331 and 1343.

VENUE

4. Venue is properly alleged in the Southern District of New York in that the acts complained of herein occurred within this District.

JURY TRIAL DEMAND

5. Plaintiff hereby demands a trial by jury of all issues in this action that are triable.

PARTIES

6. At all times relevant hereto, plaintiff, VICTOR HERNANDEZ, was and is a natural person, and was an inmate at the Fishkill Correctional Facility, which is a New York State prison located in the City of Beacon, County of Dutchess, State of New York.

7. At all times relevant hereto, defendant C.O. BRYAN W. EULL (hereinafter "EULL") was and is a natural person, employed as a correction officer by the New York State Department of Corrections and Community Supervision and was assigned to the Fishkill Correctional Facility.

8. At all times relevant hereto, defendant RAYMOND LATOURETTE (hereinafter "LATOURETTE") was and is a natural person, employed as a correction officer by the New York State Department of Corrections and Community Supervision and was assigned to the Fishkill Correctional Facility.

9. At all times relevant hereto, defendant LIEUTENANT COCUZZO, whose first name is at present unknown to plaintiff, (hereinafter "COCUZZO") was and is a natural person, employed as a lieutenant by the New York State Department of Corrections and Community Supervision and was assigned to the Fishkill Correctional Facility.

10. The individual defendants are sued in their individual capacities.

**AS AND FOR A CAUSE OF ACTION
AGAINST THE INDIVIDUAL DEFENDANTS
(42 U.S.C. §1983)**

11. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "10" hereinabove as if more fully set forth at length herein.

12. On or about June 16, 2017, at approximately 11:00 A.M., plaintiff was escorted from recreation back to his cell, which was located in area SHU-P, by defendant EULL.

13. Plaintiff was front-handcuffed.

14. When plaintiff and defendant EULL arrived at the outside of plaintiff's cell, SHU-P-5, there was a brief exchange of words between them.

15. Defendant LATOURETTE, overhearing plaintiff and defendant EULL exchanging words, approached plaintiff.

16. All the other inmates on the unit proceeded to lock into their cells but defendants EULL and LATOURETTE kept plaintiff out of his.

17. Defendant LATOURETTE ordered plaintiff to face the wall with his hands, still cuffed, held over his head on the wall.

18. Plaintiff was frisked.

19. Plaintiff saw that defendant LATOURETTE was putting on gloves.

20. Plaintiff took his hands off the wall and put them behind his head.

21. At this point, defendants LATOURETTE and EULL grabbed hold of plaintiff and threw him to the floor.

22. Plaintiff landed, hard, on his left side.

23. Defendants LATOURETTE and EULL proceeded to kick and punch plaintiff with great force.

24. Upon information and belief, defendant COCUZZO witnessed all or part of the aforementioned assault on plaintiff and took no action whatsoever to prevent or stop defendants EULL and LATOURETTE from beating plaintiff.

25. As a result of the aforementioned assault and beating, intentionally inflicted upon him by defendants EULL and LATOURETTE, plaintiff suffered fractures of his pelvis, clavicle and left elbow, and a tear of the rotator cuff of his left arm.

26. Defendants EULL and LATOURETTE, acting under color of state law, violated plaintiff's right to be free from cruel and unusual punishments, guaranteed to him by the eighth amendment to the Constitution of the United States, in that, they, without any cause or provocation whatsoever, intentionally, maliciously and sadistically physically assaulted him with such severity as to cause him severe and permanent injury.

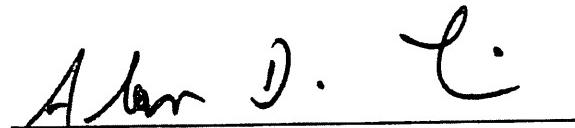
27. Defendant COCUZZO, acting under color of state law, violated plaintiff's right to be free from cruel and unusual punishments, guaranteed to him by the eighth amendment to the Constitution of the United States, in that, he, without any cause or justification therefor, intentionally, maliciously and sadistically failed to prevent or halt the assault on plaintiff by defendants EULL and LATOURETTE that resulted in the injuries enumerated hereinabove.

28. As a result of the aforementioned violations of plaintiff's right to be free from cruel and unusual punishments by the defendants, while they were acting under color of state law, plaintiff has been damaged in an amount sufficient to compensate him for his injuries as enumerated hereinabove, and, in addition, seeks punitive damages against the defendants, all amounts to be determined at the trial of this action.

WHEREFORE, plaintiff, VICTOR HERNANDEZ, demands judgment against C.O. BRYAN W. EULL, C.O. RAYMOND LATOURETTE and LIEUTENANT COCUZZO in an amount sufficient to compensate him for his injuries as enumerated hereinabove and, in addition, seeks punitive damages against defendants.

In addition, plaintiff demands the costs and disbursements of this action, including his attorney's fees, pursuant to 42 U.S.C. §1988.

Dated: Kew Gardens, New York
June 8, 2020



ALAN D. LEVINE, ESQ.
Attorney for Plaintiff
80-02 Kew Gardens Road, Suite 307
Kew Gardens, New York 11415
(718) 793-6363
Our File No. 2469